

**Senate File 107 - Introduced**

SENATE FILE 107

BY SALMON

**A BILL FOR**

1 An Act relating to elder abuse.

2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 235F.1, subsection 5, paragraph a,  
2 unnumbered paragraph 1, Code 2023, is amended to read as  
3 follows:

4 "*Elder abuse*" means any of the following relative to a  
5 vulnerable elder in all aspects of the vulnerable elder's life,  
6 liberty, and property:

7 Sec. 2. Section 235F.1, subsections 8 and 17, Code 2023, are  
8 amended to read as follows:

9 8. "*Financial exploitation*" relative to a vulnerable elder  
10 means when a person stands in a position of trust or confidence  
11 with the vulnerable elder and knowingly and by undue influence,  
12 deception, coercion, fraud, or extortion, obtains control over  
13 or otherwise uses or diverts the benefits, property, resources,  
14 belongings, or assets of the vulnerable elder solely for the  
15 benefit of someone other than the vulnerable elder and not for  
16 the benefit of the vulnerable elder. "*Financial exploitation*"  
17 includes alteration of a governing instrument by a person who  
18 stands in a position of trust or confidence with the vulnerable  
19 elder.

20 17. "*Vulnerable elder*" means a person sixty years of age  
21 or older who is unable to protect ~~himself or herself~~ the  
22 person's self from elder abuse as due to any of the following  
23 circumstances:

24 a. As a result of a mental or physical condition ~~or because.~~

25 b. Because of a personal circumstance which results in an  
26 increased risk of physical, psychological, or financial harm  
27 to the person. Clear and convincing evidence of physical,  
28 psychological, or financial harm to the person creates a  
29 rebuttable presumption that the person was unable to protect  
30 the person's self.

31 Sec. 3. Section 235F.1, Code 2023, is amended by adding the  
32 following new subsection:

33 NEW SUBSECTION. 8A. "*Governing instrument*" means a  
34 will; a trust; a deed; a custodianship; an insurance or  
35 annuity policy; an account with a designation for payment on

1 death; a security registered in beneficiary form; a pension,  
2 profit-sharing, retirement, or other employment-related benefit  
3 plan; a family limited partnership; an instrument creating or  
4 exercising a power of attorney; an estate planning document;  
5 or a dispositive, appointment, or nominative instrument of any  
6 similar type.

7 Sec. 4. Section 235F.8, subsection 1, Code 2023, is amended  
8 to read as follows:

9 1. A proceeding under this chapter shall afford a vulnerable  
10 elder due process of law, shall be held in accordance with the  
11 rules of civil procedure, except as otherwise set forth in this  
12 chapter and in chapter 664A, and is in addition to any other  
13 civil or criminal remedy.

14 EXPLANATION

15 The inclusion of this explanation does not constitute agreement with  
16 the explanation's substance by the members of the general assembly.

17 This bill relates to elder abuse.

18 The bill amends the definition of "elder abuse" to include  
19 several actions taken relative to a vulnerable elder in all  
20 aspects of the vulnerable elder's life, liberty, and property.

21 The bill amends the definition of "financial exploitation"  
22 relative to a vulnerable elder to limit financial exploitation  
23 to that which is solely for the benefit of a person other than  
24 the vulnerable elder and not for the benefit of the vulnerable  
25 elder. Additionally, under the bill, "financial exploitation"  
26 includes alteration of a governing instrument by a person  
27 who stands in a position of trust or confidence with the  
28 vulnerable elder. The bill provides a definition of "governing  
29 instrument".

30 The bill also amends the definition of "vulnerable elder"  
31 to include a person 60 years of age or older who is unable to  
32 protect the person's self from elder abuse due to a personal  
33 circumstance which results in an increased risk of physical,  
34 financial, or psychological harm to the person. The bill  
35 provides that clear and convincing evidence of physical,

1 psychological, or financial harm to a person creates a  
2 rebuttable presumption that the person was unable to protect  
3 the person's self.

4 The bill provides that a proceeding under Code chapter 235F  
5 (elder abuse) shall afford a vulnerable elder due process of  
6 law.